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October 13, 2004

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W. Room TWB-204  
Washington, D.C. 20554

**Re: Notice of Oral Ex Parte Communication, In the Matter of Review of the  
Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,  
CC Docket Nos. 04-313 and 01-338**

Dear Ms. Dortch:

On October 12, 2004, David Bogaty, Mariely Rolon, Luz Flores, Elizabeth Hernandez, WorldNet Telecommunications, Inc. ("WorldNet"), and the undersigned together with Lawrence Freedman, Counsel to WorldNet, met with Robert Tanner and Pamela Arluk, Wireline Competition Bureau; Gail Cohen, Marcus Maher, Tim Stelzig, Russell Hanser, Carol Simpson, Jeremy Miller, Competition Policy Division, Wireline Competition Bureau; and Erin Boone, Office of Strategic Planning and Policy Analysis, regarding the above-referenced dockets.

The substance of the meeting dealt with an overview and the implications of the federal UNE rules in Puerto Rico as outlined in the attached presentation. The presentation was provided to each of the attendees. WorldNet's representatives emphasized that the FCC must take into account in any ruling that it makes Puerto Rico's unique market conditions and the findings of the Telecommunications Regulatory Board of Puerto Rico, which recently held that incumbent LEC Puerto Rico Telephone Company, Inc. has a consistent track record of being unprepared, uninterested, and incapable of providing wholesale services as and when required or promised, including basic services needed by facilities-based competitors.

Pursuant to the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter and attachment are being filed electronically in the above-referenced proceedings.

Respectfully submitted



David A. Konuch

Attachment

cc: Robert Tanner  
Pamela Arluk  
Gail Cohen  
Marcus Maher  
Tim Stelzig  
Russell Hanser  
Carol Simpson  
Jeremy Miller  
Erin Boone

# WorldNet Telecommunications, Inc.

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## Overview and Implications Of Federal UNE Rules In Puerto Rico

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# I. Background

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## A. Puerto Rico Based

Locally owned and operated

## B. Business Model

1. Orderly migration to facilities based platform
  - a. Resale
  - b. UNE-P
  - c. Switch-based

## II. Puerto Rico Is A Distinct Market With Unique Market Conditions

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### A. Nationwide presumptions do not apply

1. Incumbent unprepared
  - a. Formerly state owned
  - b. Long track record of impeding competition
  - c. Cannot facilitate UNE-based competition
2. Telephone penetration low
3. Service quality poor
4. Higher costs

## II. Puerto Rico Is A Distinct Market With Unique Market Conditions (cont'd)

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B. Only jurisdiction to file high capacity switching waiver petition

1. Conducted thorough proceeding
2. Found obvious and substantial impairments
3. Findings should be given substantial weight

C. The Puerto Rico board must retain substantive role

FCC must retain ultimate authority

### III. The Existing Factual Record Supports Impairment Findings In Puerto Rico

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#### A. Mass market circuit switching in Puerto Rico

1. There has not been a “significant” deployment of local wireline switches by CLECs in Puerto Rico
2. UNE-L competition is all but non-existent in Puerto Rico
  - a. PRTC is not ready or able to provide other services necessary for switch deployment
  - b. The likely revenues for CLEC entry into Puerto Rico markets are an economic barrier

### III. The Existing Factual Record Supports Impairment Findings In Puerto Rico (cont'd)

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- B. Competitors are impaired without UNE access to high capacity transport, loops and entrance facilities in Puerto Rico
  - a. Only one other fiber network in Puerto Rico
  - b. Fiber deployment cited by ILECs as common on the mainland are absent in Puerto Rico



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IV. The Commission should immediately grant the petition by the Telecommunications Regulatory Board of Puerto Rico regarding enterprise switching UNEs

# Thank You!

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